

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Civil Action No.: 04-11939-JGD

MICHAEL J. WHALON,)
)
Plaintiff,)
)
v.)
)
CHRISTY'S OF CAPE COD, LLC,)
)
Defendant.)
)

DEFENDANT'S ASSENTED MOTION TO AMEND SCHEUDLING ORDER

Defendant Christy's of Cape Cod, LLC ("Christy's"), with the assent of Plaintiff Michael J. Whalon ("Whalon") (as set forth below), moves the Court for a brief (11 day) amendment of the current Scheduling Order. If granted, Defendant's Motion for Summary Judgment would be filed on or before August 11, 2006 (currently due July 31, 2006); Plaintiff's Opposition would be filed on or before September 11, 2006 (currently due August 31, 2006), with further replies, etc., as set forth in the Federal Rules of Civil Procedure and applicable Local Rules.

As grounds in support of this Motion, Defendant reports that since the last status conference before the Court in June, the parties have engaged in productive settlement discussions that may well lead to a resolution of this matter. Over the past two to three week period both Plaintiff and Defendant have made multiple offers and counter-offers, and the parties have made significant progress toward reaching a resolution of this matter. Counsel for the parties, while cognizant of the age of this case, believe that a slight enlargement of the Scheduling Order (11 days) to permit further negotiations could be

highly productive and eliminate the need for further proceedings before this Court.

Given the personal and professional commitments of both counsel and parties during the month of July, further discussions are required, and the parties do not anticipate that such discussions will conclude before July 31, 2006.

Counsel for Defendant reports to the Court that in various settlement discussions in recent weeks, counsel for Plaintiff has indicated his assent to a reasonable enlargement of the Scheduling Order to facilitate further settlement discussions. As counsel for Plaintiff has been out of the office and unavailable for the past several days, counsel for Defendant has been unable to obtain his assent to the specific date (August 11, 2006), but can report to the Court that the length of the enlargement (11 days) is well within the parameters discussed by counsel during recent settlement discussions.

Dated: July 26, 2006

Respectfully submitted.

For the Defendant:

/s/ Thomas W. Colomb

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